

E-Filed on 05/25/07

**DIAMOND MCCARTHY LLP**

909 Fannin, Suite 1500  
Houston, Texas 77010  
Telephone (713) 333-5100  
Facsimile (713) 333-5199

Allan B. Diamond, TX State Bar No. 05801800  
Email: adiamond@diamondmccarthy.com  
Eric D. Madden, TX State Bar No. 24013079  
Email: emadden@diamondmccarthy.com

Special Litigation Counsel for USACM Liquidating Trust

**LEWIS AND ROCA LLP**

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89169-5996  
Telephone (702) 949-8320  
Facsimile (702) 949-8321

Susan M. Freeman, AZ State Bar No. 004199  
Email: sfreeman@lrlaw.com  
Rob Charles, NV State Bar No. 006593  
Email: rcharles@lrlaw.com

Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

USA CAPITAL REALTY ADVISORS,  
LLC,

USA CAPITAL DIVERSIFIED TRUST  
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED  
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

**Affects:**

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

**CHAPTER 11**

Jointly Administered Under Case No.  
BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING  
CHICAGO TITLE INSURANCE  
COMPANY TO PRODUCE  
DOCUMENTS AND ONE OR MORE  
REPRESENTATIVES FOR  
EXAMINATION PURSUANT TO  
FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Chicago Title Insurance Company ("Chicago Title") to produce documents and one or more representatives, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy

1 Procedure 9016, to appear for examination at the office of Esquire Deposition Services,  
2 311 West Monroe Street, Suite 1200, Chicago, Illinois 60606, on a business day no earlier  
3 than ten (10) business days after the filing of this Motion and no later than July 15, 2007,  
4 or at such other mutually agreeable location, date, and time, and continuing from day to  
5 day thereafter until completed.  
6

7 This Motion is further explained in the following Memorandum.

8  
9 **Memorandum**

10 The Trust seeks information concerning various transactions between Chicago Title  
11 and USACM, the other debtors in the above-captioned cases (together with USACM, the  
12 “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related entities.  
13 Chicago Title is one of several title companies that participated in the documents of loan  
14 transactions between the Debtors and their borrowers. The Trust seeks this information  
15 from the title companies to assist in the collection of the assets and the investigation of the  
16 liabilities of the Debtors.  
17

18 In particular, the Trust will seek the following categories of documents from  
19 Chicago Title and other title companies:  
20

- 21 • Closing statements from transactions in which Debtors participated;
- 22 • Purchase contracts, amendments, and assignments from these transactions;
- 23 • Deeds of trust from these transactions;
- 24 • Documents identifying other escrows relating to the properties at issue;
- 25 • Title policies issued in connection with the closing of the transactions in  
26 which Debtors participated.

The requested discovery from Chicago Title is within the scope of examination permitted under Bankruptcy Rule 2004, which includes:

[t]he acts, conduct, or property or . . . the liabilities and financial condition of the debtor, or . . . any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In a . . . reorganization case under chapter 11 of the Code, . . . the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefore, and any other matter relevant to the case or to the formulation of a plan.<sup>1</sup>

### **Conclusion**

Accordingly, the Movant requests that this Court enter the form of order submitted with this Motion.

Dated: May 25, 2007.

**DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

By: /s/ Eric D. Madden  
 Allan B. Diamond, TX 05801800 (pro hac vice)  
 William T. Reid, IV, TX 00788817 (pro hac vice)  
 Eric D. Madden, TX 24013079 (pro hac vice)  
 909 Fannin, Suite 1500  
 Houston, Texas 77010  
 (713) 333-5100 (telephone)  
 (713) 333-5199 (facsimile)

By: /s/ Rob Charles  
 Susan M. Freeman, AZ 4199 (pro hac vice)  
 Rob Charles, NV 6593  
 3993 Howard Hughes Parkway, Suite 600  
 Las Vegas, Nevada 89169-5996  
 (702) 949-8320 (telephone)  
 (702) 949-8321 (facsimile)

*Special Litigation Counsel for  
 USACM Liquidating Trust*

*Counsel for USACM Liquidating Trust*

<sup>1</sup> FED.R. BANKR. P. 2004(b).